

JURY TRIAL DEMANDED

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
Eastern Division**

SHARYON F. ULBRICH,)	
)	
Plaintiff,)	Cause No.
)	4- _____
vs.)	
)	JURY TRIAL
)	DEMANDED
BELL ELECTRICAL)	
CONTRACTORS, INC., d/b/a BELL)	
ELECTRICAL CONTRACTORS,)	
)	
Serve:)	
)	
CT Corporation System)	
Registered Agent)	
120 South Central Avenue)	
)	
and)	
)	
MDU RESOURCES GROUP, INC.,)	
)	
Serve:)	
)	
CT Corporation System)	
Registered Agent)	
314 E. Thayer Avenue)	
Bismark, ND 58502)	
)	
Defendants.)	

**COMPLAINT
(& Demand For Jury Trial)**

Comes now Plaintiff Sharyon F. Ulbrich (hereinafter "Ulbrich"), by and through her undersigned counsel, and complains as follows.

JURY TRIAL DEMANDED**JURISDICTION & VENUE**

1. This action arises under the Age Discrimination in Employment Act, 29 U.S.C., §§ 621 et seq., and other federal statutes and law. It involves primarily a single count of unlawful age discrimination in employment, in violation of 29 U.S.C., § 623, alleged by a single plaintiff against a pair of closely related corporate defendants. The Court thus has jurisdiction over the subject matter of the action under 28 U.S.C., § 1331.

2. All causes of action alleged in this complaint arose in St. Louis County. Most, if not all, of the acts and omissions underlying this complaint occurred in St. Louis County. One of the two defendants, the corporation that employed and terminated the plaintiff, now conducts business in the County and conducted business in the County at all times pertinent to this complaint. Thus, venue lies in this Eastern Division of the Eastern District of Missouri. E.D.Mo. L.R. 3-2.07 (A) (1) & (B) (2).

3. This complaint also substantially realleges its single federal unlawful age discrimination count as a single count of age discrimination cognizable under the Missouri Human Rights Act, R.S.Mo. § 213.010 et seq. This Court has pendent jurisdiction of that state claim under 28 U.S.C., § 1367 (a).

PRIOR ADMINISTRATIVE PROCEEDINGS

4. Attached as Exhibits 1 & 2 are the state and federal complaints that Ulbrich dual-filed with the federal Equal Employment Opportunity Commission (hereinafter "EEOC") and the Missouri Commission on Human Rights (hereinafter "MCHR") on June 17, 2008.

5. Attached as Exhibit 3 is the Right to Sue letter that issued for the single administrative complaint from the MCHR on or about November 5, 2008.

JURY TRIAL DEMANDED

6. Attached as Exhibit 4 is the Right to Sue letter that issued for the single administrative complaint from the EEOC on or about December 2, 2008.

PARTIES

7. Ulbrich resides at 2625 Plantation Point in St. Charles, St. Charles County, Missouri, within the Eastern Division of the Eastern District. At all times pertinent to this action, she resided at that same address. At all times pertinent to this action through her termination by the defendant on February 27, 2008, she was employed by the defendant Bell Electrical Contractors, Inc., at its offices in St. Louis County.

8. Defendant Bell Electrical Contractors, Inc. (hereinafter "Bell"), is, and at all times pertinent to this action was, a Missouri business corporation conducting business as Bell Electrical Contractors in St. Louis County with a principal place of business at 128 Millwell Drive in Maryland Heights.

9. Defendant MDU Resources Group, Inc. (hereinafter "MDU"), is a Delaware corporation not registered to do business in Missouri. Nonetheless, MDU has conducted business in Missouri at all times pertinent to this action and continues to conduct business in Missouri without being registered.

COUNT I

(unlawful age discrimination in discharging plaintiff on February 27, 2008)

10. Ulbrich went to work for Bell as a marketer on or about April 8, 1991.

11. Ulbrich was born on January 30, 1943, and turned 65 on January 30, 2008.

12. Ulbrich remained employed at Bell for over sixteen years through February 27, 2008, working in marketing over that entire period.

JURY TRIAL DEMANDED

13. Ulbrich underwent annual written employee evaluations at Bell. Her written annual employment reviews in June of 2006 and June of 2007 both were good. Neither indicated any reason for her to be concerned for her position at Bell as a marketing coordinator. Copies of the 2006 and 2007 annual reviews are attached to this complaint as Exhibits 5 & 6.

14. After June, 2007, and through the date of her discharge, Ulbrich continued work as a marketing coordinator for Bell at the same level of competency and dedication acknowledged in her 2006 and 2007 annual reviews through the morning of February 27, 2008.

15. On the morning of February 27, 2008, Ulbrich was out on the road on Bell business when she received a phone call, summoning her back to the Bell offices. She returned immediately, met with the president upon her return, and quickly learned that she was discharged from Bell that day.

16. The February 27, 2008, discharge was a complete surprise to Ulbrich. The reason Bell's president gave her for the sudden discharge had to do with a single advertising account and generally poor sales performance; and nobody had given Ulbrich any warning or any indication that her handling of the account was problematic.

17. Ulbrich never was an executive with Bell. At the time of her discharge, her annual salary was \$62,114.

18. Ulbrich's discharge was not in accordance with any mandatory employment program. In fact, Ulbrich knows of no such program at Bell applicable to any employees.

19. Ulbrich did not have any retirement benefit rights of which she is aware other than her 401(k) account, and she received no such retirement or termination benefit upon her

JURY TRIAL DEMANDED

discharge. When Bell fired her, they paid her only salary through her discharge date, two days of severance pay, and three weeks of accumulated vacation pay.

20. Bell unlawfully discharged Ulbrich because of her age in violation 29 U.S.C. § 623(a)(1) and in violation of other applicable law.

21. Bell acted willfully in discharging Ulbrich unlawfully; and Ulbrich is entitled to liquidated damages in accordance with the provisions of 29 U.S.C. § 626(b).

22. Ulbrich also is entitled to an award of her attorney's fee and costs in accordance with 29 U.S.C. §§ 626 & 216(b).

23. At all times pertinent to this action, Bell acted either as an agent for, as a partner with, or as a joint venturer with MDU in all its dealings with Ulbrich.

24. Various documents pertaining to Ulbrich's employment at Bell were prepared by MDU on MDU stationery or forms, including but not limited to the 2006 and 2007 annual employee reviews attached to this complaint as Exhibits 5 & 6, indicating plainly that Ulbrich's employment at Bell was for the benefit of both Bell and MDU and substantially controlled by MDU.

25. At least for the last several years of her employment at Bell, Ulbrich understood herself to be working for both Bell and MDU, with MDU being the corporate parent of Bell.

26. Ulbrich's negotiations in this matter prior to the filing of this complaint in this Court were virtually exclusively with MDU rather than with Bell; and, in all the circumstances, it was plain to Ulbrich that it was MDU, not Bell, making all employer decisions in those negotiations.

WHEREFORE, Ulbrich prays for judgment in her favor and against Bell and MDU, jointly and severally, for compensatory and liquidated damages and damages of any kind

JURY TRIAL DEMANDED

recoverable under the Age Discrimination in Employment Act, for any allowable pre-judgment interest, for her attorney's fees and costs, and for such additional relief as this Court deems appropriate.

COUNT II – MISSOURI HUMAN RIGHTS ACT
(unlawful age discrimination in discharging plaintiff on February 27, 2008)

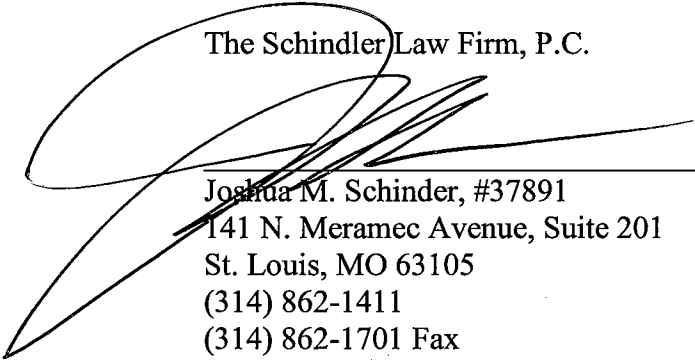
27. The facts alleged herein in Count I make out a violation of the unlawful employment practices provisions of R.S.Mo. § 213.055.1(1)(a).

28. Ulbrich requested a Right to Sue letter from the MHRC and received a letter from the MHRC dated November 5, 2008.

29. R.S.Mo. § 213.111 affords Ulbrich a cause of action for this violation and entitles her to compensatory damages, punitive damages, and an award of her attorney fees and costs.

WHEREFORE, Ulbrich prays for judgment in her favor and against Bell and MDU, jointly and severally, for compensatory and punitive damages, for any allowable pre-judgment interest, for her attorney's fees and costs, and for such additional relief as this Court deems appropriate.

The Schindler Law Firm, P.C.



Joshua M. Schinder, #37891
141 N. Meramec Avenue, Suite 201
St. Louis, MO 63105
(314) 862-1411
(314) 862-1701 Fax
josh@schindlerlawfirm.com
Attorney for Sharyon F. Ulbrich

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Sharyon F. Ulbrich

(b) County of Residence of First Listed Plaintiff St. Charles County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Joshua M. Scindler, The Scindler Law Firm, 141 North Meramec, Suite 201, Clayton, MO 63105

DEFENDANTS

Bell Electrical Contractors, Inc., d/b/a Bell Electrical Contractors, MDU Resources Group, Inc.

County of Residence of First Listed Defendant St. Louis County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 42 U.S.C. Sect. 2000 e-2; 2000 e-3; 2000 e-5

Brief description of cause:
 Employment Discrimination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

Sharyon F. Ulbrich

)	
plaintiff,)	
)	
v.)	Case No.
Bell Electrical Contractors, Inc.,)	
d/b/a Bell Electrical Cont., et al)	
defendant.)	

ORIGINAL FILING FORM

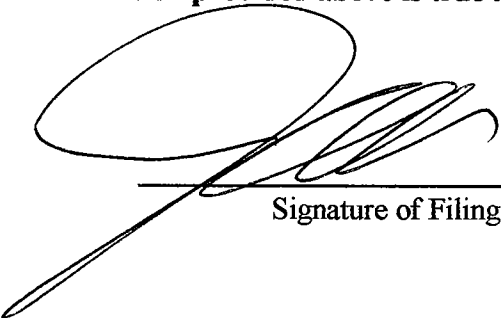
THIS FORM MUST BE COMPLETED AND VERIFIED BY THE FILING PARTY WHEN INITIATING A NEW CASE.

—THIS CAUSE, OR A SUBSTANTIALLY EQUIVALENT COMPLAINT, WAS
PREVIOUSLY FILED IN THIS COURT AS CASE NUMBER _____
AND ASSIGNED TO THE HONORABLE JUDGE _____.

☒ NEITHER THIS CAUSE, NOR A SUBSTANTIALLY EQUIVALENT COMPLAINT,
PREVIOUSLY HAS BEEN FILED IN THIS COURT, AND THEREFORE MAY BE
OPENED AS AN ORIGINAL PROCEEDING.

The undersigned affirms that the information provided above is true and correct.

Date: 12/7/08



Signature of Filing Party

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
Eastern Division**

SHARYON ULBRICH,)	
)	
Plaintiff,)	Cause No.
)	4- _____
)	
vs.)	
)	JURY TRIAL
)	DEMANDED
BELL ELECTRICAL CONTRACTORS,)	
INC., d/b/a BELL ELECTRICAL)	
CONTRACTORS, MDU RESOURCES)	
GROUP, INC.)	
)	
Defendants.)	

NOTICE OF INTENT TO USE PROCESS SERVER

COMES NOW, Plaintiffs Sharyon Ulbrich, by and through her attorney, Joshua M. Schindler, of the Schindler Law Firm, and hereby notifies the court of the intent to use the following process server:

Michael Barbieri
PDI Investigations, Inc.
211 South Central Avenue, Suite 101
Clayton, MO 63105

to serve Defendant Bell Electrical Contractors, Inc., d/b/a Bell Electrical Contractors;
and,

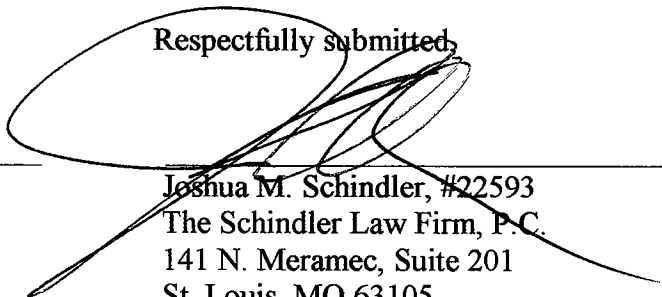
Burleigh County Sheriff's Department
Civil Division
Box 1416
Bismarck, ND 58502-1416

to serve Defendant MDU Resources Group, Inc.

The process server listed above possesses the requirements as stated in Rule 4 of the Federal Rules of Civil Procedure. The undersigned affirms the information provided is true and correct.

Respectfully submitted,

Dated: 12/9/08


Joshua M. Schindler, #22593
The Schindler Law Firm, P.C.
141 N. Meramec, Suite 201
St. Louis, MO 63105
(314)862-1411 – Telephone
(314)862-1701 - Facsimile

Attorneys for Plaintiff Sharyon Ulbrich

AO 440 (Rev. 10/93) Summons in a Civil Action

United States District Court

EASTERN DISTRICT OF MISSOURI

SHARYON F. ULBRICH,
Plaintiff,

SUMMONS IN A CIVIL CASE

V.

CASE NUMBER:

BELL ELECTRICAL CONTRACTORS, INC., d/b/a BELL
ELECTRICAL CONTRACTORS and MDU RESOURCES GROUP,
INC.,

Defendants.

TO: (Name and address of defendant)

CT Corporation System, Registered Agent
Bell Electrical Contractors, Inc., d/b/a Bell
Electrical Contractors
120 South Central Avenue
Clayton, MO 63105

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Joshua M. Schindler, Esq.
141 North Meramec, Suite 201
Clayton, MO 63105

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(BY) DEPUTY CLERK

AO 440 (Rev. 10/93) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and Complaint was made by met	DATE
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the defendant. Place where served:
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left:
- ☐ Returned unexecuted:
- ☐ Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

AO 440 (Rev. 10/93) Summons in a Civil Action

United States District Court

EASTERN DISTRICT OF MISSOURI

SHARYON F. ULBRICH,
Plaintiff,

SUMMONS IN A CIVIL CASE

V.

CASE NUMBER:

BELL ELECTRICAL CONTRACTORS, INC., d/b/a BELL
ELECTRICAL CONTRACTORS and MDU RESOURCES GROUP,
INC.,

Defendants.

TO: (Name and address of defendant)

CT Corporation System, Registered Agent
MDU Resources Group, Inc.
314 E. Thayer Avenue
Bismark, ND 58502

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Joshua M. Schindler, Esq.
141 North Meramec, Suite 201
Clayton, MO 63105

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(BY) DEPUTY CLERK

AO 440 (Rev. 10/93) Summons in a Civil Action

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NAME OF SERVER (PRINT)	TITLE

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- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left:
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- ☐ Other (specify):

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TRAVEL	SERVICES	TOTAL
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Executed on _____
Date

Signature of Server

Address of Server